

## Federal Motor Carrier Safety Administration, DOT

## § 392.4

### Subpart D—Use of Lighted Lamps and Reflectors

392.30–392.32 [Reserved]

392.33 Obscured lamps or reflective devices/material.

### Subpart E—License Revocation; Duties of Driver

392.40–392.41 [Reserved]

### Subpart F—Fueling Precautions

392.50 Ignition of fuel; prevention.

392.51 Reserve fuel; materials of trade.

392.52 [Reserved]

### Subpart G—Prohibited Practices

392.60 Unauthorized persons not to be transported.

392.61 [Reserved]

392.62 Safe operation, buses.

392.63 Towing or pushing loaded buses.

392.64 Riding within closed commercial motor vehicles without proper exits.

392.65 [Reserved]

392.66 Carbon monoxide; use of commercial motor vehicle when detected.

392.67 Heater, flame-producing; on commercial motor vehicle in motion.

392.68–392.69 [Reserved]

392.71 Radar detectors; use and/or possession.

AUTHORITY: 49 U.S.C. 13902, 31136, 31502; and 49 CFR 1.73.

SOURCE: 33 FR 19732, Dec. 25, 1968, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 392 appear at 66 FR 49874, Oct. 1, 2001.

### Subpart A—General

#### § 392.1 Scope of the rules in this part.

Every motor carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, operation, or driving of commercial motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with the rules in this part.

[53 FR 18057, May 19, 1988, as amended at 60 FR 38746, July 28, 1995]

#### § 392.2 Applicable operating rules.

Every commercial motor vehicle must be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being

operated. However, if a regulation of the Federal Motor Carrier Safety Administration imposes a higher standard of care than that law, ordinance or regulation, the Federal Motor Carrier Safety Administration regulation must be complied with.

[35 FR 7800, May 21, 1970, as amended at 60 FR 38746, July 28, 1995]

#### § 392.3 Ill or fatigued operator.

No driver shall operate a commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a commercial motor vehicle, while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle. However, in a case of grave emergency where the hazard to occupants of the commercial motor vehicle or other users of the highway would be increased by compliance with this section, the driver may continue to operate the commercial motor vehicle to the nearest place at which that hazard is removed.

[35 FR 7800, May 21, 1970, as amended at 60 FR 38746, July 28, 1995]

#### § 392.4 Drugs and other substances.

(a) No driver shall be on duty and possess, be under the influence of, or use, any of the following drugs or other substances:

(1) Any 21 CFR 1308.11 *Schedule I* substance;

(2) An amphetamine or any formulation thereof (including, but not limited, to "pep pills," and "bennies");

(3) A narcotic drug or any derivative thereof; or

(4) Any other substance, to a degree which renders the driver incapable of safely operating a motor vehicle.

(b) No motor carrier shall require or permit a driver to violate paragraph (a) of this section.

(c) Paragraphs (a) (2), (3), and (4) do not apply to the possession or use of a substance administered to a driver by or under the instructions of a licensed medical practitioner, as defined in § 382.107 of this subchapter, who has advised the driver that the substance will